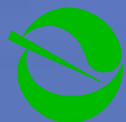




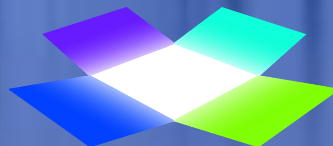
Safer Consumer Products Regulations

Presentation to the Green Ribbon Science Panel

January 29, 2014



California
Environmental
Protection Agency



SAFER
CONSUMER
PRODUCTS



Department of
Toxic Substances
Control



What We Need:

- **A comprehensive solution to address toxins in products**
- **Ability to avoid “regrettable substitutes”**



Response of California Policy-makers: Single Chemical Ban Bills



AB 1108
Phthalates in
Toys

AB 1319
BPAs in Baby
Bottles and
Sippy Cups





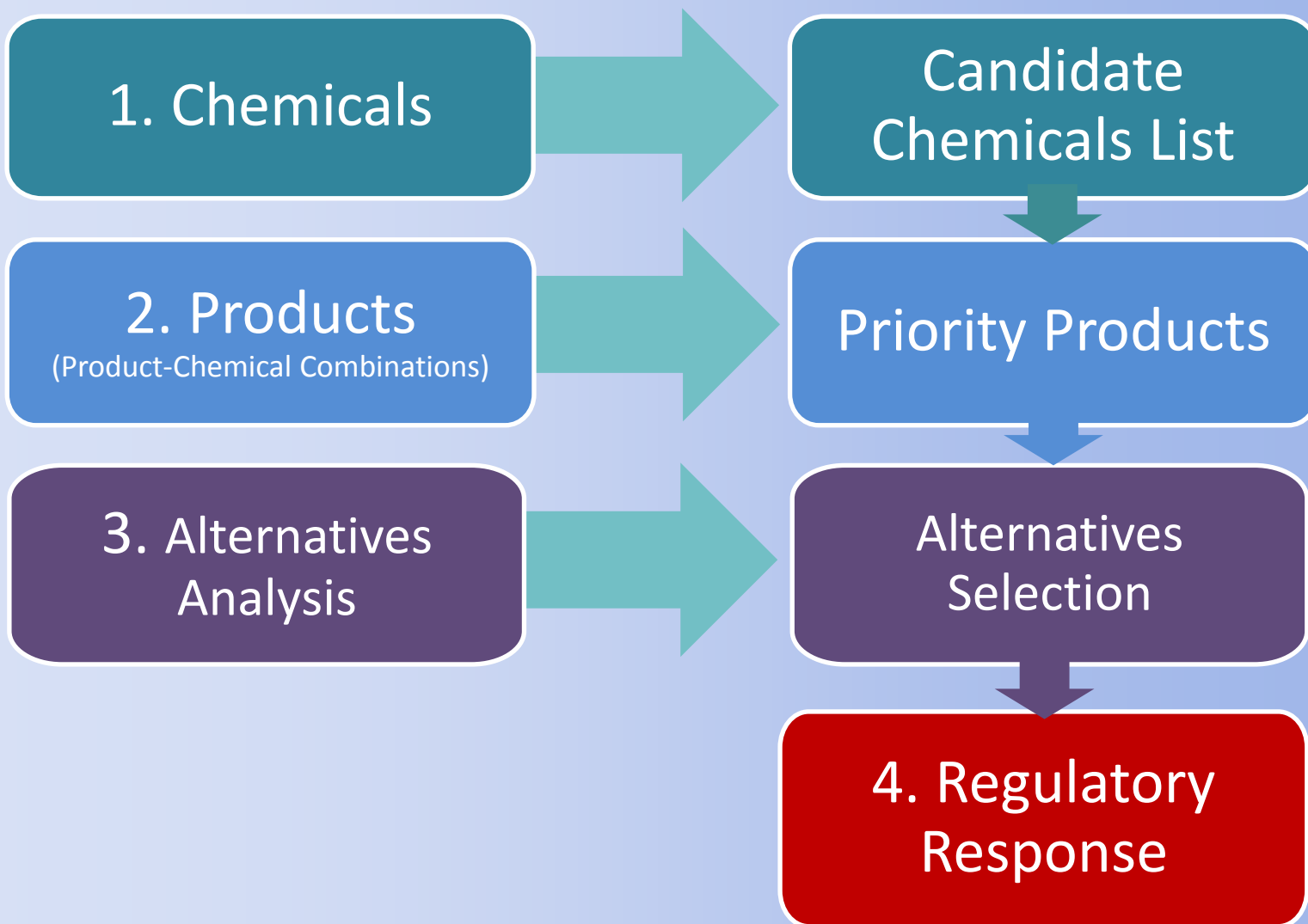
**AB 1879 – Safer Consumer
Product Regulations will require
product manufacturers to ask:**


Is it Necessary?



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How It Works: The SCP Regulations





1 Candidate Chemicals Identification

- 2. Identify Priority Products with Chemicals of Concern**
- 3. Alternatives Analysis**
- 4. Regulatory Response**



Initial List of Candidate Chemicals

Published September 26, 2013

Includes chemicals that exhibit hazard traits and are on 23 authoritative lists



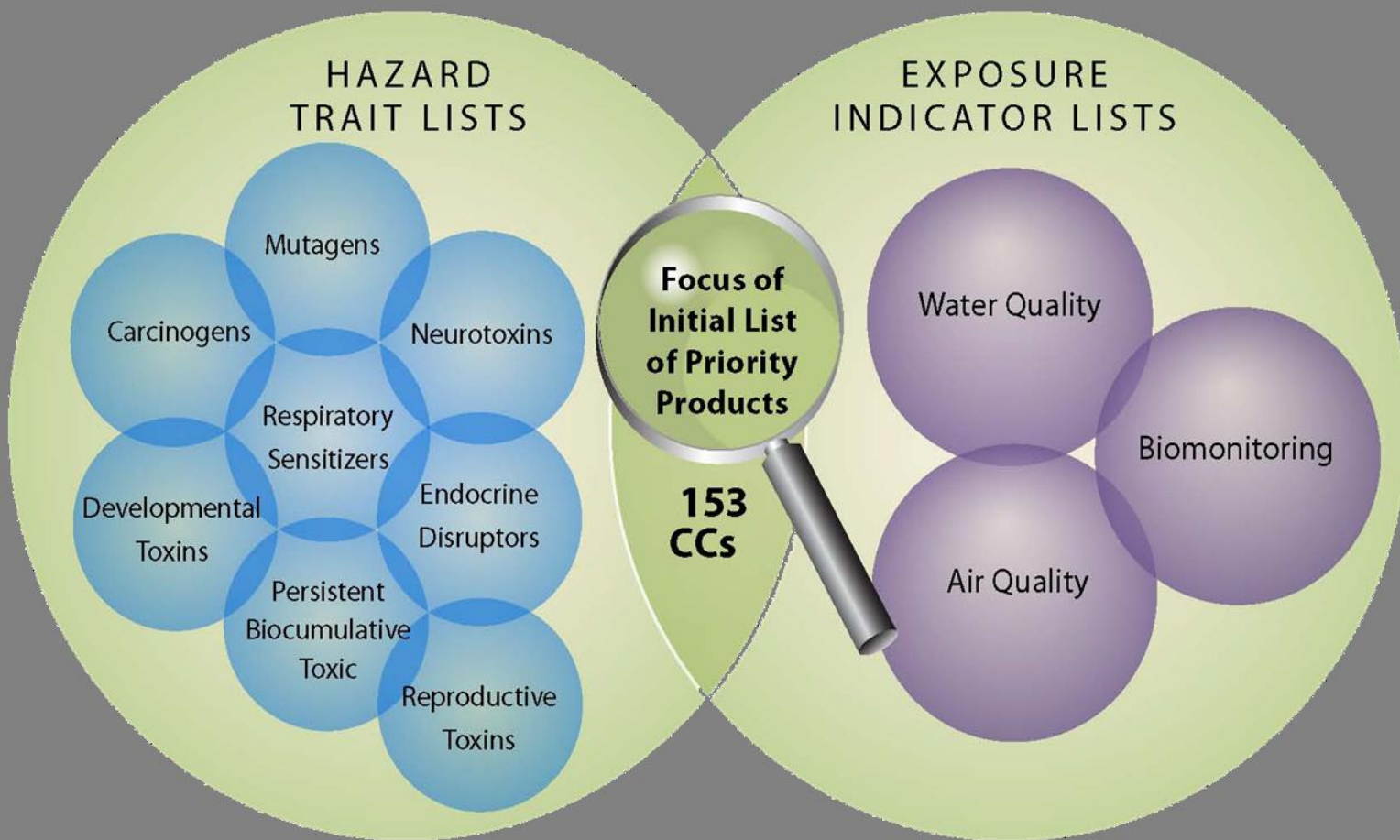
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Candidate Chemicals: **WHY?**

- Sends immediate signals to the marketplace
- Flexible palette for future action
- Deter regrettable substitutions
- Similar in size to existing industry lists

Initial List of Candidate Chemicals: ~1,200





1. Candidate Chemical Selection

2 Identify Priority Products with Chemicals of Concern

3. Alternatives Analysis

4. Regulatory Response



Key Prioritization Principles

For each listed Priority Product there must be:

- Potential exposure(s) to the Candidate Chemicals in the product

AND

- Potential for exposures to contribute to or cause significant or widespread adverse impacts



Key Prioritization Principles

- Sensitive subpopulations
- Environmentally sensitive habitats
- Endangered or threatened species
- Exposures
 - Market data
 - Through use of product
 - Throughout product's lifecycle



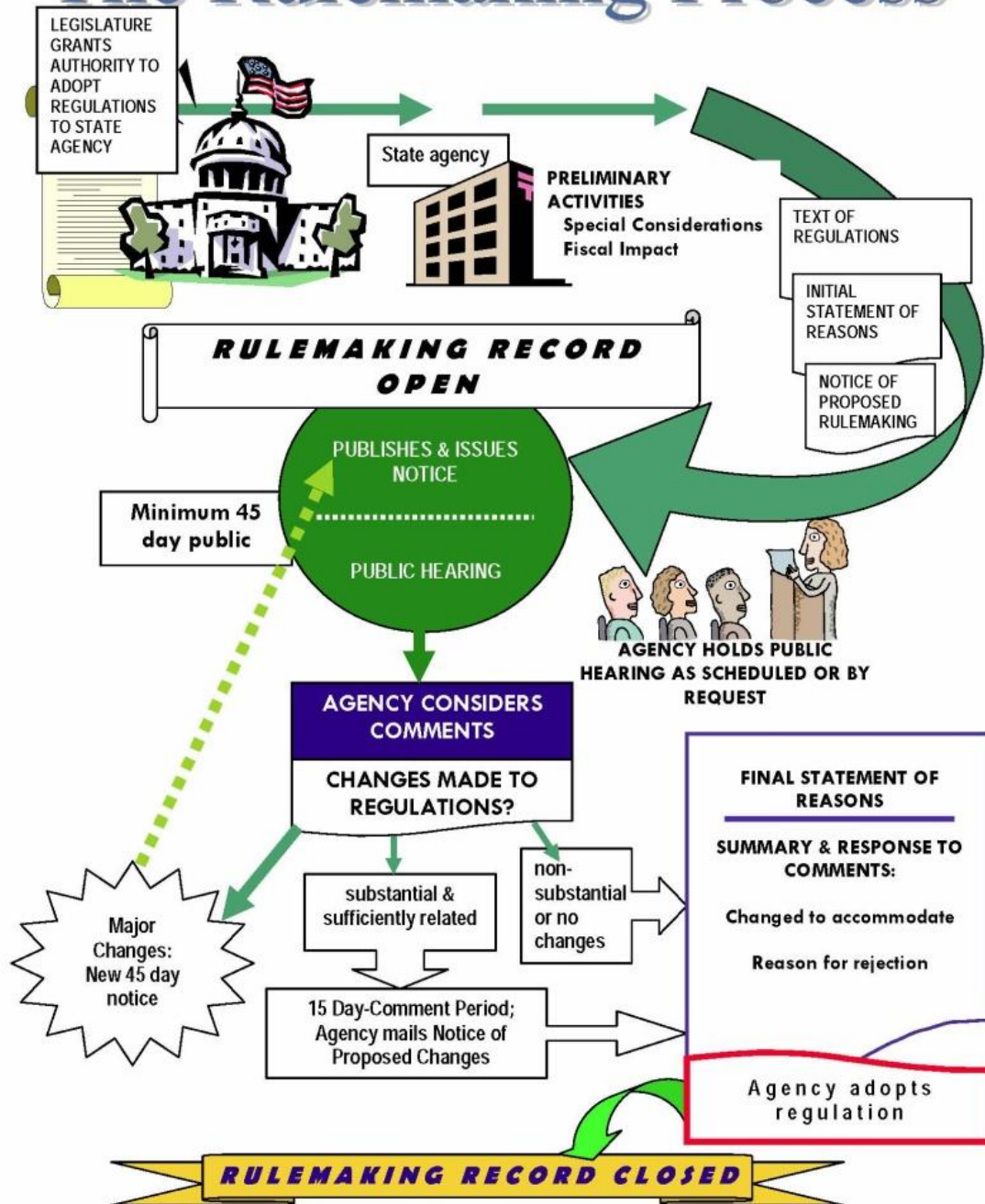
Process for Listing Priority Products

Administrative Procedure Act (APA) Rulemaking Process with the Office of Administrative Law (OAL)



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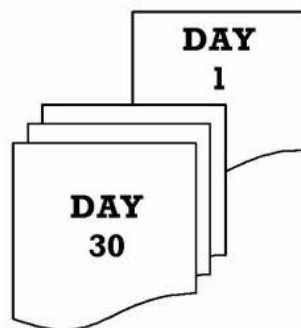
The Rulemaking Process



OAL REVIEW

State agency must submit
rulemaking record within 1 year
of notice publication

OAL has 30 WORKING days
to review a regulation

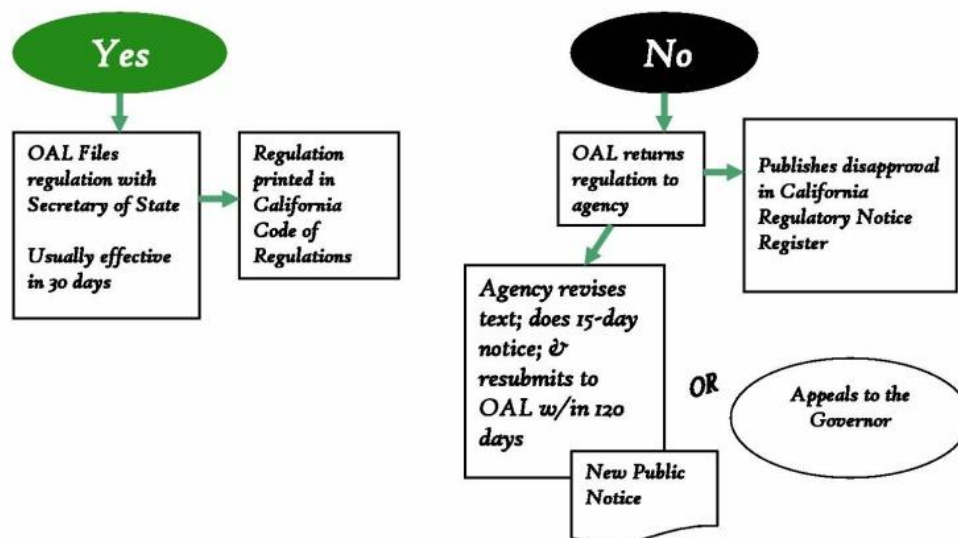


APA STANDARDS:

**AUTHORITY
REFERENCE
CONSISTENCY
CLARITY
NON-DUPLICATION
NECESSITY**

**& PROCEDURAL
REQUIREMENTS**

DOES THE RULEMAKING SATISFY THE APA?






Process for Listing Priority Products

In addition to the standard rulemaking process, we must complete:

- External scientific peer review
- CEQA compliance
- Environmental Policy Council consultation



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Answering the question: Is it necessary?



- 
1. **Candidate Chemical Selection**
 2. **Identify Priority Products with Chemicals of Concern**

3 **Alternatives Analysis**

4. **Regulatory Response**



Responsibility for Compliance

1

MANUFACTURER: Who makes the product or who controls the manufacturing process or has the capacity to specify the chemicals in the product



2

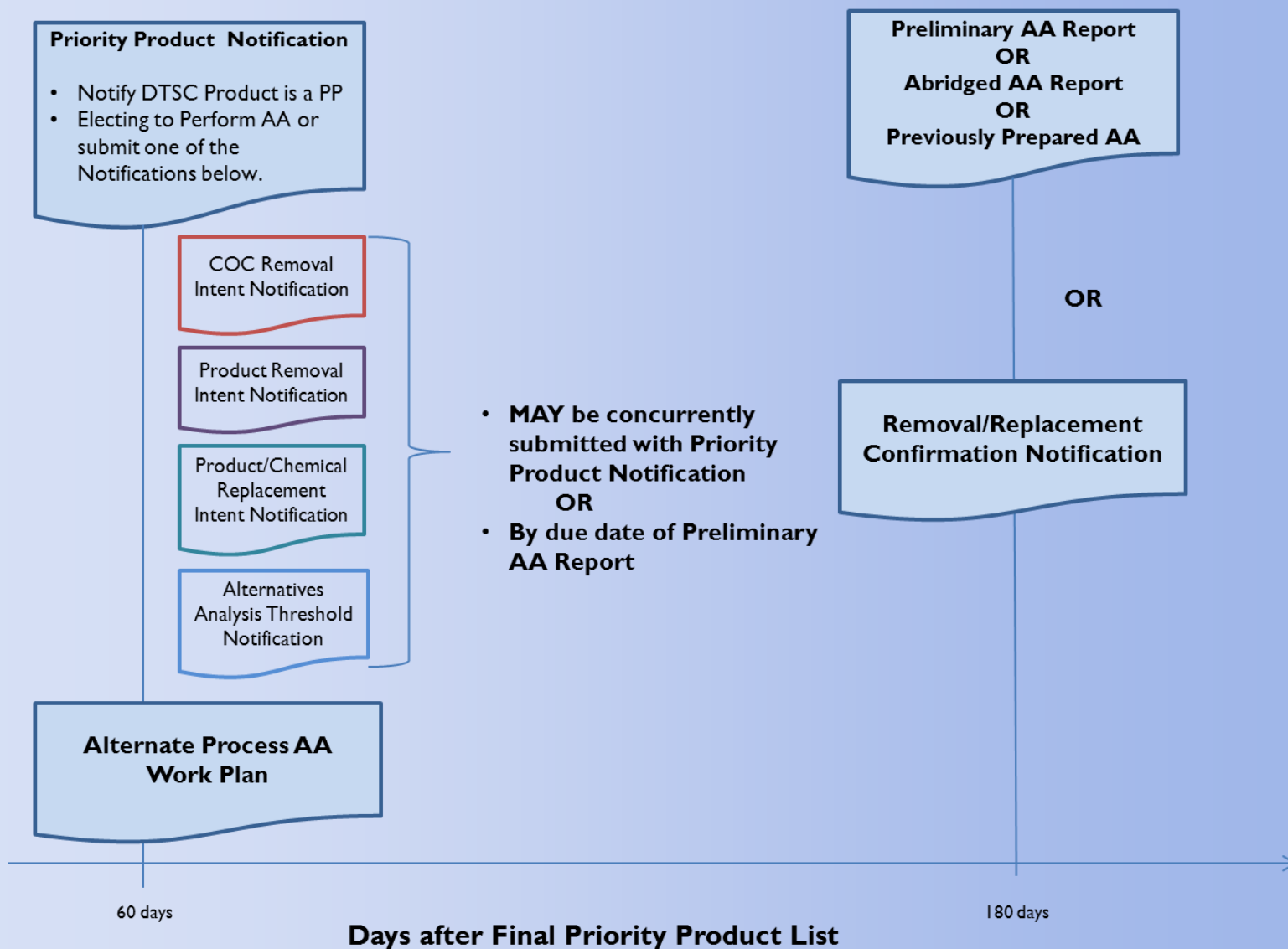
U.S. IMPORTER: Who imports the product into California



3

RETAILERS: Who sell the product in California.
ASSEMBLERS: Who assembles products containing Priority Product components

How manufacturers will answer:

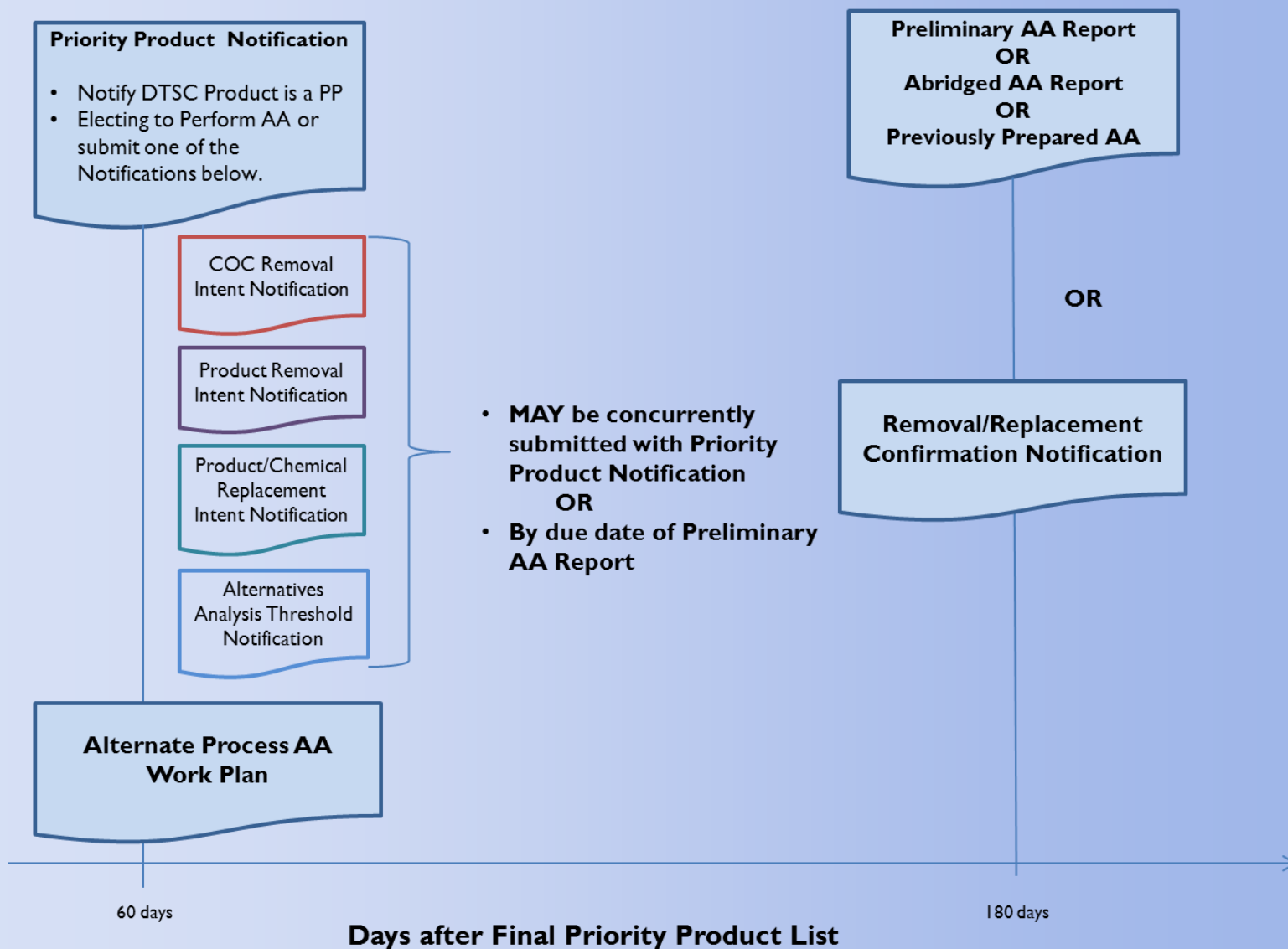




Alternatives Analysis Threshold

- When the Chemical of Concern (COC) is present in the product as a contaminant and the concentration of the COC does not exceed the Practical Quantitation Limit (PQL)
- When DTSC sets an AAT higher than the PQL for a COC that is present as a contaminant
- When DTSC sets an AAT for a COC that is an intentionally added ingredient

How manufacturers will answer:





“A-M” Criteria (from the statute)

- | | |
|--|--|
| A. Product function/
performance | H. Energy efficiency |
| B. Useful life | I. Greenhouse gas
emissions |
| C. Materials/resource
consumption | J. Waste and end-of-life
disposal |
| D. Water conservation | K. Public health impacts:
sensitive sub-
populations |
| E. Water quality impacts | L. Environmental impacts |
| F. Air emissions | M. Economic impacts |
| G. Product use, transpor-
tation, energy inputs | |



First Stage of Alternatives Analysis

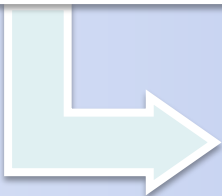
Step 1 ID Product Requirements

- Function, performance, standards & legal requirements
- Function of Chemical of Concern
- Is the chemical necessary?
- Is replacement chemical necessary?




Step 2 ID* Alternatives

- Meet product requirements
- Reduce / eliminate CC
- Reduce / eliminate exposure
- Look at existing alternatives



Step 3 ID relevant factors

- Determine relevant hazards
- Compare alternatives
- Eliminate replacements with greater adverse impacts



Step 4 Prepare Report

- **Preliminary AA report**
- 180 days
- Work plan for 2nd Stage of AA process

*Should ID chemical substitutes AND other alternatives.



Second Stage of Alternatives Analysis

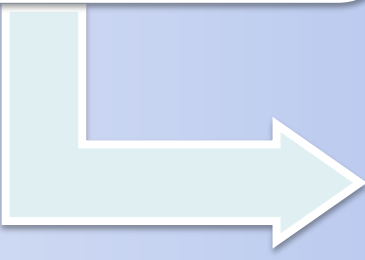
Step 1 – ID Relevant Comparison Factors

- In conjunction with exposure pathways & lifecycle phases
- Quantitative / qualitative analysis
- Available information



Step 2 – Compare Priority Product & Alternatives

- Quantitative / qualitative analysis
- Relevant factors
 - *exposure pathways*
 - *life cycle segments*
- Available information



Step 3 – Alternatives Selection Decision

- **Final AA Report**
- 1 year
- Reason & justification for decision



Transparency

- AA final reports posted – allow for redaction due to trade secrets
- Public comment period for final AA Report
- DTSC will review comments to determine which warrant a response from manufacturer



DTSC Review of Final AA Report

In reviewing AA Reports and Alternate Process AA Work Plans for compliance DTSC shall consider:

- Timeliness of submission
- If all applicable provisions are addressed
- If the conclusions are based on reliable information



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Alternatives Analysis Timeline

What	When
Priority Product Notification due	60 days after final Priority Products listing through APA
Preliminary AA Report due	180 days after final listing as a Priority Product
DTSC Reviews Preliminary AA Report; NOC* issued	Within 60 days after receiving Preliminary AA Report
Final AA Report due to DTSC	12 months after receiving the NOC* for Prelim AA Report
DTSC reviews Final AA Report; NOC* issued	Within 60 days after receiving Final AA Report

*Notice of Compliance



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Other Alternatives Analysis options


- Abridged AA Report
- Alternative Process AA
- Previously Completed AAs
- Reformulations
 - AA must compare original PP and reformulated product
- After submitting a Final AA:
 - Revised Alternative Selection Decision



Alternatives Analysis v. Alternatives Assessment?

- U.S. EPA's Design for the Environment
- BizNGO's Alternatives Assessment Protocol
- Interstate Chemicals Clearinghouse (IC2) Alternatives Assessment Guidance
- REACH Authorisation Analysis of Alternatives



- 
- 1. Candidate Chemical Selection**
 - 2. Identify Priority Products with Chemicals of Concern**
 - 3. Alternatives Analysis**

4 Regulatory Response



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List of Regulatory Responses

- No response
- Additional information to DTSC
- Additional information to consumer
- Additional safety measures
- Use Restrictions
- Prohibitions on Sales
- End-of-life product stewardship
- Research funding



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What does success look like?





Signal to the Marketplace...







For those of you who were with us in 2011...

- Important changes to the regulations
 - Alternatives Analysis Threshold
 - Elimination of Certified Assessors



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